

ANNOUNCING

Administrative Order 2004-5

Applicability

- The procedure applies to appeals filed on and after 1/1/05 arising solely from orders granting or denying motions for summary disposition under MCR 2.116. The trial court shall rule on such motions without delay and shall specify the subsection of MCR 2.116(C) under which judgment is entered.

Expedited Track for Summary Disposition Appeals to Michigan Court of Appeals

- **GOAL:** Disposition within about six months of filing.
- Applies to all appeals from orders granting or denying summary disposition.
- Applies to appeals filed on or after January 1, 2005.
- Essentially unchanged deadlines to file claims & applications.
- Expedited deadlines for briefing & transcript production.
- Priority review by COA research division.
- Priority placement on summary panels for disposition within 35 days of submission.
- Roughly 90 days for briefing & record production.

Initiating Appeals

- Claim of appeal, leave application, and cross-appeal forms are unchanged. No docketing statement is required unless the case is removed from the expedited track to the regular track – these cases will not go through Settlement.

Transcripts

- A new appeal must be accompanied by (1) evidence that the transcript was ordered, (2) a statement that there is no record to transcribe, or (3) a statement that the transcript is waived. If appellant waives the transcript, appellee may order it within 14 days of appellant's waiver.
- If a transcript is to be produced, it is due 28 days after it is ordered. If it is timely filed, the court reporter will receive a newly enacted increased page rate of \$3/original page and \$.50/copy page. MCL 600.2543. If it is not timely filed, the ordering party must file an appropriate motion within 7 days or that party's brief will be due as if the transcript had been timely filed.

Briefing Format

- Briefs must conform to existing court rules except that they are limited to 35 pages and must be accompanied by the party's trial court summary disposition motion or response, trial court brief, and trial court appendices.
- Five-page reply briefs are permitted within 14 days of appellee's brief.
- In discretionary appeals, appellant may rely on the application for leave rather than filing a separate brief. New copies of the application are required, with a cover letter indicating the application is being refiled in lieu of a brief.

Briefing Timeline

- The briefing timeline is truncated. Appellant's brief is due within 28 days after the trigger events. Appellee's brief is due within 21 days after the trigger events. Reply briefs are due within 14 days of the trigger event.
- Parties may request 14-day extensions on motion for good cause shown. The prescribed motion form focuses on critical factors and facilitates expedited processing by the Court.
- Appellant's failure to timely file the brief will trigger issuance of an order assessing costs and warning of dismissal if the brief is not filed within 14 days after the deadline.

Notice That Case Is On Expedited Track

- New appeals will be acknowledged with a postcard noting that the case is being routed onto the expedited track. Administrative Order 2004-5 will be cited for users' convenience.

Date: 01/03/2005

SMITH V JONES
COA#: 234567
LC#: 99-123456 CZ

The above *docket number has been assigned* to your filing that was received by this Court on 1/03/2005. Please use this number on all future filings in this case.

Case assigned to expedited Summary Disposition Track, Administrative Order 2004-5.



Removal From Track

- A case may be removed from the expedited track via a motion from either party or on the Court's own motion.
- The prescribed form motion to remove focuses the issues and facilitates expedited processing by the Court.
- A successful motion to remove will establish that the case is a matter of first impression, or involves the first construction of a statute or rule, or involves complex facts or law. Opposing counsel's agreement to removal may be indicated but it will not be dispositive of removal.

MOTION FORMS at <http://courtofappeals.mijud.net>

Extend Time For Brief

Case Name: _____ LCt. No.: _____
COA No.: _____

(Check all that apply and provide a specific explanation where appropriate)

I request an extension of _____ days (not to exceed 14 days) to file the _____'s brief because:

☐ The following personal emergency has occurred:

☐ I have the following deadlines that conflict with the due date of this brief:

Case Name & Docket Number	Court	Deadline (date & subject)

☐ Other: _____

☐ Opposing counsel does not object to the requested extension.

Signature: _____

Address: _____

Telephone No.: _____

Remove from Expedited Track

Case Name: _____ LCt. No.: _____
COA No.: _____

(Check all that apply and provide a detailed description)

This appeal should be removed from the summary disposition track because it involves:

☐ A matter of first impression in Michigan, which is _____

☐ The first construction of the following Michigan statute or rule: _____

☐ Complex facts or law, including approximately:

_____ pages of deposition/hearing transcript that were considered by the trial court in granting or denying summary disposition

_____ pages of exhibits, pleadings, or other documents of record that were considered by the trial court in granting or denying summary disposition

Other _____

☐ I have discussed this motion with opposing counsel who has stated he or she does not oppose the motion.

☐ I have tried to contact opposing counsel who has not responded.

Signature: _____

Address: _____

Telephone No.: _____

Project Monitoring

- The project begins on January 1, 2005, and has a sunset date of December 31, 2006.
- The Case Management Work Group that conceived and sponsored the proposal on which Administrative Order 2004-5 is based will report to the Supreme Court in mid-2006 and again in December 2006.
- By the sunset date, the Supreme Court will determine whether to discontinue, change or continue the expedited track for summary disposition appeals.

**Administrative Order 2004-5
may be accessed on the
Court of Appeals website at:
<http://courtofappeals.mijud.net>**

Appellate practitioners should read the Administrative Order before filing an appeal from an order involving summary disposition.

The material contained in this brochure is in summary form and is not intended as a substitute for a full understanding of the contents of the Administrative Order.



November 2004